IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.730 of 2005

WITH

CIVIL APPLICATION NO. 853 of 2005

Laxmichand J. Vira .. Appellant

versus

The Maharashtra Housing & Area Development Board & ors. .. Respondents

...

Mr.Paras N. Vira for the appellant.

Mrs.Geeta Mulekar AGP for the respondent nos.1 to 4.

Mrs.Geeta Jogalekar for the resondent no.5.

CORAM : B.H. MARLAPALLE,J

DATED : 11th October 2005

P.C.:

1. Heard the learned counsel for the appellant plaintiff who is aggrieved by the order dated 17th June 2005 passed by the learned Judge of the City Civil Court dismissing the Notice of Motion no.2607 of 2004 with compensatory costs of Rs.2,000/- to be

paid to defendant no.1.

2. The plaintiff filed S.C. Suit no.2882 of 2004 praying for declaration that the draw held in February 2004 by the Officers of defendant no.1 for allotment of tenements in the reconstructed building was illegal, discriminatory and not in compliance with the prescribed law. The plaintiff also prayed for permanent injunction. He claimed that he was in possession of room no.61-A, 2nd floor, Lakhpati Building, Dr.Moses Road, Jacob Circle along with his father as a tenant and after reconstruction of the suit building he was called upon to contact the Estate Manager of the defendant no.1 so as to comply with the requirements in support of his claim in respect of the allotment of the premises. As per the plaintiff, the draw which was held in February 2004 for allotment of newly constructed tenements was not in keeping with the democratic norms and by way of temporary injunction, the plaintiff prayed for stay to the allotment by filing Notice of Motion no. 2607 of 2004.

3. The trial Court had granted an ad-interim order on 6th July 2004 and the learned counsel for

the defendant no.1 prayed for vacating the said order for the reasons that as many as 64 families were waiting for the flats to be occupied as per the allotments made in the draw held in February 2004. The trial Court noted that the defendant no.1 in the affidavit in reply had clarified the total procedure followed for allotment of newly constructed tenement by draw and it indicated that majority of the members were present when the draw was held. The allegations of unfairness have been rejected by the trial Court by observing that there was transparency in allotting the premises in accordance with the norms. The reasoning given by the trial Court is cogent and it is obvious that the plaintiff had succeeded in stalling the Rehabilitation of 64 families who were legitimate allotees and they were deprived form occupying the rooms allotted to them for almost one year. The Challenge to the impuged order is therefore devoid of merits and this appeal must fail at the threshold.

4. The appeal is dismissed in limine.

B.H. MARLAPALLE, J